



Reprinted  
April 10, 2007

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## ENGROSSED SENATE BILL No. 206

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DIGEST OF SB 206 (Updated April 9, 2007 11:41 pm - DI 75)

**Citations Affected:** IC 8-1; noncode.

**Synopsis:** Energy facilities. Amends the definition of "clean coal technology" in various statutes. Defines the term as a technology used at an electric or a steam generating facility to reduce carbon, sulfur, mercury, or nitrogen based pollutants or particulate matter emissions that are regulated, or reasonably anticipated by the utility regulatory commission (IURC) to be regulated, by the federal government, the state, or a political subdivision of the state. (The current definition includes only technologies that reduce sulfur or nitrogen emissions.) Requires an electricity supplier (other than a rural electric membership cooperative or a municipally owned utility) to supply a certain percentage of its total electricity supply from renewable energy  
(Continued next page)

**Effective:** Upon passage; July 1, 2007.

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### Gard, Kruse

(HOUSE SPONSORS — CROOKS, BEHNING, LUTZ J)

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January 11, 2007, read first time and referred to Committee on Utilities & Regulatory Affairs.

January 29, 2007, amended, reported favorably — Do Pass.

February 1, 2007, read second time, amended, ordered engrossed.

February 2, 2007, engrossed.

February 8, 2007, read third time, passed. Yeas 29, nays 17.

#### HOUSE ACTION

February 26, 2007, read first time and referred to Committee on Commerce, Energy and Utilities.

April 3, 2007, amended, reported — Do Pass.

April 9, 2007, read second time, amended, ordered engrossed.

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resources. Establishes the renewable energy resources fund. Requires an electricity supplier that fails to supply electricity from renewable energy resources to pay a penalty. Deposits the penalties in the fund. Authorizes the IURC, upon a petition from an energy utility that uses coal or natural gas at an existing generating plant to generate electricity or steam and after a hearing, to approve implementation of certain projects to reduce air emissions of carbon, sulfur, mercury, or nitrogen based pollutants or emissions of particulate matter and for the timely recovery of costs incurred by the utility in implementation of those projects. Authorizes the IURC to provide other financial incentives for implementation of such regulated air emissions projects. Provides that the Indiana utility regulatory commission may not determine a territorial dispute between certain municipal water utilities. Requires the IURC, upon the request of the county executives of three or more counties that are located in an electric utility's service area, to study the feasibility of establishing a regional public power authority to: (1) acquire the assets of an electric utility providing retail electric service on April 1, 2007, in specified counties in Indiana; (2) own and operate the assets acquired; and (3) act as a nonprofit utility to provide retail electric service to customers within the participating units. Requires the commission to report its findings not later than December 31, 2007, to: (1) the regulatory flexibility committee; (2) the legislative council; and (3) the county executive of each county in the electric utility's service area on April 1, 2007. Authorizes the regulatory flexibility committee to recommend any legislation necessary to establish a regional public power authority in Indiana. Makes technical corrections.

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Reprinted  
April 10, 2007

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

## ENGROSSED SENATE BILL No. 206

A BILL FOR AN ACT to amend the Indiana Code concerning  
utilities and transportation.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 8-1-2-6.1 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6.1. (a) As used in  
3 this section, "clean coal technology" means a technology (including  
4 precombustion treatment of coal):

5 (1) that is used at a new or existing electric **or steam** generating  
6 facility and directly or indirectly reduces **or avoids** airborne  
7 emissions:

8 (A) of:

9 (i) **carbon**, sulfur, **mercury**, or nitrogen based pollutants; **or**

10 (ii) **particulate matter**;

11 (B) **that are** associated with the combustion or use of coal;  
12 and

13 (C) **that are regulated, or reasonably anticipated by the**  
14 **commission to be regulated, by:**

15 (i) **the federal government**;

16 (ii) **the state**;

17 (iii) **a political subdivision of the state; or**

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(iv) any agency of a unit of government described in items (i) through (iii); and

(2) that either:

(A) is not in general commercial use at the same or greater scale in new or existing facilities in the United States as of January 1, 1989; or

(B) has been selected by the United States Department of Energy for funding under its Innovative Clean Coal Technology program and is finally approved for such funding on or after January 1, 1989.

(b) As used in this section, "Indiana coal" means coal from a mine whose coal deposits are located in the ground wholly or partially in Indiana regardless of the location of the mine's tipple.

(c) Except as provided in subsection (d), the commission shall allow a utility to recover as operating expenses those expenses associated with:

(1) research and development designed to increase use of Indiana coal; and

(2) preconstruction costs (including design and engineering costs) associated with employing clean coal technology at a new or existing coal burning electric **or steam** generating facility if the commission finds that the facility:

(A) utilizes and will continue to utilize (as its primary fuel source) Indiana coal; or

(B) is justified, because of economic considerations or governmental requirements, in utilizing non-Indiana coal; after the technology is in place.

(d) The commission may only allow a utility to recover preconstruction costs as operating expenses on a particular project if the commission awarded a certificate under IC 8-1-8.7 for that project.

(e) The commission shall establish guidelines for determining recoverable expenses.

SECTION 2. IC 8-1-2-6.6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6.6. (a) As used in this section:

"Clean coal technology" means a technology (including precombustion treatment of coal):

(1) that is used at a new or existing electric **or steam** generating facility and directly or indirectly reduces **or avoids** airborne emissions:

(A) of:

(i) **carbon**, sulfur, **mercury**, or nitrogen based pollutants; **or**

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- 1                   (ii) particulate matter;  
 2                   (B) that are associated with the combustion or use of coal;  
 3                   and  
 4                   (C) that are regulated, or reasonably anticipated by the  
 5                   commission to be regulated, by:  
 6                   (i) the federal government;  
 7                   (ii) the state;  
 8                   (iii) a political subdivision of the state; or  
 9                   (iv) any agency of a unit of government described in  
 10                  items (i) through (iii); and  
 11                  (2) that either:  
 12                   (A) is not in general commercial use at the same or greater  
 13                   scale in new or existing facilities in the United States as of  
 14                   January 1, 1989; or  
 15                   (B) has been selected by the United States Department of  
 16                   Energy for funding under its Innovative Clean Coal  
 17                   Technology program and is finally approved for such funding  
 18                   on or after January 1, 1989.  
 19                  "Indiana coal" means coal from a mine whose coal deposits are  
 20                  located in the ground wholly or partially in Indiana regardless of the  
 21                  location of the mine's tipple.  
 22                  "Qualified pollution control property" means an air pollution control  
 23                  device on a coal burning electric **or steam** generating facility or any  
 24                  equipment that constitutes clean coal technology that has been  
 25                  approved for use by the commission, that meets applicable state or  
 26                  federal requirements, and that is designed to accommodate the burning  
 27                  of coal from the geological formation known as the Illinois Basin.  
 28                  "Utility" refers to any electric **or steam** generating utility allowed  
 29                  by law to earn a return on its investment.  
 30                  (b) Upon the request of a utility that began construction after  
 31                  October 1, 1985, and before March 31, 2002, of qualified pollution  
 32                  control property that is to be used and useful for the public  
 33                  convenience, the commission shall for ratemaking purposes add to the  
 34                  value of that utility's property the value of the qualified pollution  
 35                  control property under construction, but only if at the time of the  
 36                  application and thereafter:  
 37                   (1) the facility burns only Indiana coal as its primary fuel source  
 38                   once the air pollution control device is fully operational; or  
 39                   (2) the utility can prove to the commission that the utility is  
 40                   justified because of economic considerations or governmental  
 41                   requirements in utilizing some non-Indiana coal.  
 42                  (c) The commission shall adopt rules under IC 4-22-2 to implement

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1 this section.

2 SECTION 3. IC 8-1-2-6.7 IS AMENDED TO READ AS  
3 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6.7. (a) As used in  
4 this section, "clean coal technology" means a technology (including  
5 precombustion treatment of coal):

6 (1) that is used in a new or existing electric **or steam** generating  
7 facility and directly or indirectly reduces **or avoids** airborne  
8 emissions:

9 (A) of:

10 (i) **carbon, sulfur, mercury, or nitrogen based pollutants; or**

11 (ii) **particulate matter;**

12 (B) **that are** associated with the combustion or use of coal;  
13 and

14 (C) **that are regulated, or reasonably anticipated by the**  
15 **commission to be regulated, by:**

16 (i) **the federal government;**

17 (ii) **the state;**

18 (iii) **a political subdivision of the state; or**

19 (iv) **any agency of a unit of government described in**  
20 **items (i) through (iii); and**

21 (2) that either:

22 (A) is not in general commercial use at the same or greater  
23 scale in new or existing facilities in the United States as of  
24 January 1, 1989; or

25 (B) has been selected by the United States Department of  
26 Energy for funding under its Innovative Clean Coal  
27 Technology program and is finally approved for such funding  
28 on or after January 1, 1989.

29 (b) The commission shall allow a public or municipally owned  
30 electric **or steam** utility that incorporates clean coal technology to  
31 depreciate that technology over a period of not less than ten (10) years  
32 or the useful economic life of the technology, whichever is less and not  
33 more than twenty (20) years if it finds that the facility where the clean  
34 coal technology is employed:

35 (1) utilizes and will continue to utilize (as its primary fuel source)  
36 Indiana coal; or

37 (2) is justified, because of economic considerations or  
38 governmental requirements, in utilizing non-Indiana coal;

39 after the technology is in place.

40 SECTION 4. IC 8-1-2-6.8 IS AMENDED TO READ AS  
41 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6.8. (a) This  
42 section applies to a utility that begins construction of qualified

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1 pollution control property after March 31, 2002.

2 (b) As used in this section, "clean coal technology" means a  
3 technology (including precombustion treatment of coal):

4 (1) that is used in a new or existing energy generating facility and  
5 directly or indirectly reduces **or avoids** airborne emissions:

6 (A) of:

7 (i) **carbon**, sulfur, mercury, or nitrogen oxides;

8 (ii) **particulate matter**; or

9 (iii) other ~~regulated~~ air emissions;

10 (B) **that are** associated with the combustion or use of coal;  
11 and

12 (C) **that are regulated, or reasonably anticipated by the**  
13 **commission to be regulated, by:**

14 (i) **the federal government;**

15 (ii) **the state;**

16 (iii) **a political subdivision of the state; or**

17 (iv) **any agency of a unit of government described in**  
18 **items (i) through (iii); and**

19 (2) that either:

20 (A) was not in general commercial use at the same or greater  
21 scale in new or existing facilities in the United States at the  
22 time of enactment of the federal Clean Air Act Amendments  
23 of 1990 (P.L.101-549); or

24 (B) has been selected by the United States Department of  
25 Energy for funding under its Innovative Clean Coal  
26 Technology program and is finally approved for such funding  
27 on or after the date of enactment of the federal Clean Air Act  
28 Amendments of 1990 (P.L.101-549).

29 (c) As used in this section, "qualified pollution control property"  
30 means an air pollution control device on a coal burning energy  
31 generating facility or any equipment that constitutes clean coal  
32 technology that has been approved for use by the commission and that  
33 meets applicable state or federal requirements.

34 (d) As used in this section, "utility" refers to any energy generating  
35 utility allowed by law to earn a return on its investment.

36 (e) Upon the request of a utility that begins construction after March  
37 31, 2002, of qualified pollution control property that is to be used and  
38 useful for the public convenience, the commission shall for ratemaking  
39 purposes add to the value of that utility's property the value of the  
40 qualified pollution control property under construction.

41 (f) The commission shall adopt rules under IC 4-22-2 to implement  
42 this section.

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SECTION 5. IC 8-1-2-6.9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6.9. (a) As used in this section, "existing electric generating facility" refers to a facility:

- (1) other than a new energy generating facility (as defined in IC 8-1-8.8-8);
- (2) that is used to generate electricity or steam;
- (3) that is associated with the combustion of coal or natural gas; and
- (4) that is used and useful for the convenience of the public not later than May 1, 2007.

(b) As used in this section, "regulated air emissions" means air emissions:

- (1) from an electric generating facility;
- (2) that are:
  - (A) carbon, sulfur, mercury, or nitrogen based pollutants; or
  - (B) particulate matter; and
- (3) that are regulated, or reasonably anticipated by the commission to be regulated, by:
  - (A) the federal government;
  - (B) the state;
  - (C) a political subdivision of the state; or
  - (D) any agency of a unit of government described in clauses (A) through (C).

(c) As used in this section, "regulated air emissions project" means a project designed to reduce or avoid regulated air emissions from an existing electric generating facility. The term does not include projects that provide offset programs, such as agricultural and forestry activities.

(d) An energy utility (as defined in IC 8-1-2.5-2) may petition the commission for approval of the construction, installation, and operation of a regulated air emissions project. If the commission finds, after notice and hearing, the proposed regulated air emissions project to be reasonable and necessary, the commission may approve the project and provide the following incentives:

- (1) The timely recovery of costs associated with the regulated air emissions project, including capital, operation, maintenance, depreciation, tax, and financing costs incurred during the construction and operation of the project.
- (2) The recovery of costs associated with:
  - (A) the purchase of emissions allowances; or

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**(B) the payment of emission taxes arising from compliance with air emissions regulations.**

**(e) In addition to the incentives described in subsection (d), the commission may provide any other financial incentives the commission considers appropriate.**

SECTION 6. IC 8-1-2-86.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 86.5. **(a) For purposes of this section, "four (4) mile area" means the area within four (4) miles of a municipality's corporate boundaries.**

**(b) Except as provided in subsection (c), the commission, after notice and hearing, may, by order, determine territorial disputes between all water utilities.**

**(c) This subsection applies if a municipality exercises the power to regulate the furnishing of water to the public granted by IC 36-9-2-14 within a four (4) mile area. The commission may not determine a territorial dispute within the four (4) mile area unless the territorial dispute concerns a geographic area that is located in:**

- (1) the four (4) mile area; and**
- (2) another four (4) mile area.**

SECTION 7. IC 8-1-8.7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. As used in this chapter, "clean coal technology" means a technology (including precombustion treatment of coal):

- (1) that is used in a new or existing electric generating facility and directly or indirectly reduces or avoids airborne emissions:**

**(A) of:**

- (i) carbon, sulfur, mercury, or nitrogen based pollutants; or**
- (ii) particulate matter;**

**(B) that are associated with the combustion or use of coal; and**

**(C) that are regulated, or reasonably anticipated by the commission to be regulated, by:**

- (i) the federal government;**
- (ii) the state;**
- (iii) a political subdivision of the state; or**
- (iv) any agency of a unit of government described in items (i) through (iii); and**

- (2) that either:**

**(A) is not in general commercial use at the same or greater scale in new or existing facilities in the United States as of January 1, 1989; or**

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(B) has been selected by the United States Department of Energy for funding under its Innovative Clean Coal Technology program and is finally approved for such funding on or after January 1, 1989.

SECTION 8. IC 8-1-8.7-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) Except as provided in subsection (c), a public utility may not use clean coal technology at a new or existing electric generating facility without first applying for and obtaining from the commission a certificate that states that public convenience and necessity will be served by the use of clean coal technology.

(b) The commission shall issue a certificate of public convenience and necessity under subsection (a) if the commission finds that a clean coal technology project offers substantial potential of reducing ~~sulfur or nitrogen based~~ pollutants **described in section 1(1) of this chapter** in a more efficient manner than conventional technologies in general use as of January 1, 1989. For purposes of this chapter, a project that the United States Department of Energy has selected for funding under its Innovative Clean Coal Technology program and is finally approved for funding after December 31, 1988, is not considered a conventional technology in general use as of January 1, 1989. When determining whether to grant a certificate under this section, the commission shall examine the following factors:

- (1) The costs for constructing, implementing, and using clean coal technology compared to the costs for conventional emission reduction facilities.
- (2) Whether a clean coal technology project will also extend the useful life of an existing electric generating facility and the value of that extension.
- (3) The potential reduction of ~~sulfur and nitrogen based~~ pollutants **described in section 1(1) of this chapter that can be achieved** by the proposed clean coal technology system.
- (4) The reduction of ~~sulfur nitrogen based~~ pollutants **described in section 1(1) of this chapter** that can be achieved by conventional pollution control equipment.
- (5) Federal ~~sulfur and nitrogen based~~ pollutant emission standards.
- (6) The likelihood of success of the proposed project.
- (7) The cost and feasibility of the retirement of an existing electric generating facility.
- (8) The dispatching priority for the facility utilizing clean coal technology, considering direct fuel costs, revenues and expenses

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of the utility, and environmental factors associated with byproducts resulting from the utilization of the clean coal technology.

(9) Any other factors the commission considers relevant, including whether the construction, implementation, and use of clean coal technology is in the public's interest.

(c) A public utility is not required to obtain a certificate under this chapter for a clean coal technology project that constitutes a research and development project that may be expensed under IC 8-1-2-6.1.

SECTION 9. IC 8-1-8.8-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. As used in this chapter, "clean coal technology" means a technology (including precombustion treatment of coal):

(1) that is used in a new or existing energy generating facility and directly or indirectly reduces **or avoids** airborne emissions:

(A) of:

(i) **carbon**, sulfur, mercury, or nitrogen oxides;

(ii) **particulate matter**; or

(iii) other ~~regulated~~ air emissions;

(B) **that are** associated with the combustion or use of coal; and

(C) **that are regulated, or reasonably anticipated by the commission to be regulated, by:**

(i) **the federal government;**

(ii) **the state;**

(iii) **a political subdivision of the state; or**

(iv) **any agency of a unit of government described in items (i) through (iii); and**

(2) that either:

(A) was not in general commercial use at the same or greater scale in new or existing facilities in the United States at the time of enactment of the federal Clean Air Act Amendments of 1990 (P.L.101-549); or

(B) has been selected by the United States Department of Energy for funding under its Innovative Clean Coal Technology program and is finally approved for such funding on or after the date of enactment of the federal Clean Air Act Amendments of 1990 (P.L.101-549).

SECTION 10. IC 8-1-35 IS ADDED TO THE INDIANA CODE AS A **NEW CHAPTER** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]:

### **Chapter 35. Renewable Energy Development**

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1        **Sec. 1.** As used in this chapter, "electricity supplier" means a  
 2        public utility (as defined in IC 8-1-2-1) that furnishes retail electric  
 3        service to the public. The term does not include a public utility that  
 4        is:

- 5            (1) a municipally owned utility (as defined in IC 8-1-2-1(h));
- 6            (2) a corporation organized under IC 8-1-13; or
- 7            (3) a corporation organized under IC 23-17-1 that is an  
 8            electric cooperative and that has at least one (1) member that  
 9            is a corporation organized under IC 8-1-13.

10        **Sec. 2.** As used in this chapter, "fund" refers to the renewable  
 11        energy resources fund established by section 8 of this chapter.

12        **Sec. 3.** As used in this chapter, "regional transmission  
 13        organization" refers to a regional transmission organization  
 14        approved by the Federal Energy Regulatory Commission for the  
 15        geographic area in which an electricity supplier's assigned service  
 16        area (as defined in IC 8-1-2.3-2) is located.

17        **Sec. 4.** As used in this chapter, "renewable energy credit", or  
 18        "REC", means one (1) megawatt hour of electricity generated by  
 19        renewable energy resources that is:

- 20            (1) quantifiable; and
- 21            (2) possessed by not more than one (1) entity at a time.

22        **Sec. 5.** (a) As used in this chapter, "renewable energy resources"  
 23        includes the following sources for the production of electricity:

- 24            (1) Dedicated crops grown for energy production.
- 25            (2) Methane systems that convert waste products, including  
 26            animal, food, and plant waste, into electricity.
- 27            (3) Methane recovered from landfills.
- 28            (4) Wind.
- 29            (5) Hydropower, other than hydropower involving the  
 30            construction of new dams or the expansion of existing dams.
- 31            (6) Solar photovoltaic cells and panels.
- 32            (7) Fuel cells that directly convert chemical energy in a  
 33            hydrogen rich fuel into electricity.
- 34            (8) Sawmill or timber waste, other than waste derived from  
 35            commercial grade timber.
- 36            (9) Agricultural crop waste.
- 37            (10) Combined heat and power systems that:  
 38                (A) use natural gas or renewable energy resources as  
 39                feedstock; and  
 40                (B) achieve at least seventy percent (70%) overall  
 41                efficiency.
- 42            (11) Demand side management or efficiency programs that

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1 reduce electricity consumption or implement load  
 2 management or demand response technologies that shift  
 3 electric load from periods of higher demand to periods of  
 4 lower demand, including the following:

5 (A) Home weatherization.

6 (B) Appliance efficiency modifications and replacements.

7 (C) Lighting efficiency modifications.

8 (D) Heating and air conditioning modifications or  
 9 replacements.

10 (b) The term does not include energy from the incineration,  
 11 burning, or heating of the following:

12 (1) Tires.

13 (2) Garbage.

14 (3) General household, institutional, or commercial waste.

15 (4) Industrial lunchroom or office waste.

16 (5) Construction or demolition debris.

17 (6) Feedstock that is municipal, food, plant, industrial, or  
 18 animal waste from outside Indiana.

19 Sec. 6. (a) Each electricity supplier shall supply electricity  
 20 generated by renewable energy resources to Indiana customers as  
 21 a percentage of the total electricity supplied by the electricity  
 22 supplier to Indiana customers as follows:

23 (1) In 2009, at least five-tenths percent (0.5%).

24 (2) In 2010, at least one percent (1%).

25 (3) In 2011, at least two percent (2%).

26 (4) In 2012, at least two and five-tenths percent (2.5%).

27 (5) In 2013, at least three percent (3%).

28 (6) In 2014, at least four percent (4%).

29 (7) In 2015, at least five percent (5%).

30 (8) In 2016 and 2017, at least six percent (6%).

31 (9) In 2018 and 2019, at least seven percent (7%).

32 (10) In 2020 through 2024, at least eight percent (8%).

33 (11) In 2025 and thereafter, at least ten percent (10%).

34 For purposes of this subsection, electricity is measured in  
 35 megawatt hours.

36 (b) An electricity supplier may not use a renewable energy  
 37 resource described in section 5(a)(10) of this chapter to generate  
 38 more than ten percent (10%) of the electricity that the electricity  
 39 supplier is required to supply under subsection (a).

40 (c) An electricity supplier may use a renewable energy resource  
 41 described in section 5(a)(11) of this chapter each to generate not  
 42 more than ten percent (10%) of the electricity that the electricity

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supplier is required to supply under subsection (a).

(d) An electricity supplier may own or purchase RECs to comply with subsection (a).

(e) If an electricity supplier exceeds the applicable percentage under subsection (a) in a compliance year, the electricity supplier may carry forward the amount of electricity that:

(1) exceeds the applicable percentage under subsection (a);

and

(2) is generated by renewable energy resources in an Indiana facility;

to comply with the requirement under subsection (a) for either or both of the two (2) immediately succeeding compliance years.

(f) An electricity supplier that fails to comply with subsection (a) shall deposit in the fund an amount equal to:

(1) the number of megawatt hours of electricity that the electricity supplier was required to but failed to supply under subsection (a); multiplied by

(2) fifty dollars (\$50).

(g) An electricity supplier is not required to comply with subsection (a) if the commission determines that the electricity supplier has demonstrated that the cost of renewable energy resources or RECs available to the electricity supplier would result in an unreasonable increase in the basic rates and charges for electricity supplied to customers of the electricity supplier if the electricity supplier complied with subsection (a). The commission shall conduct a public hearing to make a determination under this subsection.

(h) If the commission determines under subsection (g) that the cost of available renewable energy resources or RECs is not reasonable, the commission shall:

(1) reduce or eliminate the affected electricity supplier's obligations under subsection (a) as appropriate; and

(2) review its determination not more than twelve (12) months after the reduction or elimination under subdivision (1) takes effect.

(i) The commission shall allow an electricity supplier to recover reasonable and necessary costs incurred in:

(1) constructing, operating, or maintaining facilities to comply with this chapter; or

(2) generating electricity from, or purchasing electricity generated from, a renewable energy resource;

by a periodic rate adjustment mechanism.

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1       **Sec. 7. (a) For purposes of calculating RECs to determine an**  
 2 **electricity supplier's compliance with section 6(a) of this chapter,**  
 3 **the following apply:**

4       **(1) Except as provided in subdivisions (2) through (4), one (1)**  
 5 **megawatt hour of electricity generated by renewable energy**  
 6 **resources in an Indiana facility equals one (1) REC.**

7       **(2) One (1) megawatt hour of electricity generated by a**  
 8 **renewable energy resource described in section 5(a)(2),**  
 9 **5(a)(3), or 5(a)(4) of this chapter that originates in Indiana**  
 10 **equals one and five-tenths (1.5) RECs.**

11       **(3) One (1) megawatt hour of electricity that is:**

12       **(A) generated by a renewable energy resource in the**  
 13 **territory of a regional transmission organization; and**

14       **(B) imported into Indiana;**

15 **equals five-tenths (0.5) REC.**

16       **(4) One (1) megawatt hour of electricity that is generated by**  
 17 **a renewable energy resource described in section 5(a)(10) of**  
 18 **this chapter in Indiana equals five-tenths (0.5) REC.**

19       **(b) Electricity generated by any source outside the territory of**  
 20 **a regional transmission organization may not be considered for**  
 21 **purposes of calculating an REC to determine an electricity**  
 22 **supplier's compliance with section 6(a) of this chapter.**

23       **(c) An electricity supplier may satisfy not more than ten percent**  
 24 **(10%) of the electricity supplier's requirement under section 6(a)**  
 25 **of this chapter by owning or purchasing RECs calculated under**  
 26 **subsection (a)(4).**

27       **(d) An electricity supplier may not apportion all or part of a**  
 28 **single megawatt of electricity among:**

29       **(1) more than one (1) renewable energy resource; or**

30       **(2) more than one (1) category set forth in subsection (a);**

31 **in order to comply with section 6(a) of this chapter.**

32       **Sec. 8. (a) The renewable energy resources fund is established**  
 33 **to:**

34       **(1) support the development, construction, and use of**  
 35 **renewable energy resources, including small scale renewable**  
 36 **energy resources, in rural and urban Indiana; and**

37       **(2) reimburse the Indiana economic development corporation**  
 38 **and the commission for expenses incurred under section 9 of**  
 39 **this chapter.**

40       **(b) The fund consists of the following:**

41       **(1) Money deposited under section 6(f) of this chapter.**

42       **(2) Money from any other source that is deposited in the fund.**

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1 (c) The Indiana economic development corporation shall  
2 administer the fund.

3 (d) The expenses of administering the fund shall be paid from  
4 money in the fund.

5 (e) The treasurer of state shall invest the money in the fund not  
6 currently needed to meet the obligations of the fund in the same  
7 manner as other public money may be invested. Interest that  
8 accrues from these investments shall be deposited in the fund.

9 (f) Money in the fund at the end of a state fiscal year does not  
10 revert to the state general fund.

11 Sec. 9. (a) This section applies if there is sufficient money in the  
12 fund to reimburse the Indiana economic development corporation  
13 and the commission for expenses incurred under subsection (b).

14 (b) The Indiana economic development corporation, in  
15 consultation with the commission, shall develop a strategy to  
16 attract renewable energy manufacturing facilities, including wind  
17 turbine component manufacturers, to Indiana.

18 Sec. 10. Beginning in 2011, and not later than March 1 of each  
19 year, a utility shall file with the commission a report of the utility's  
20 compliance with this chapter for the preceding calendar year.

21 Sec. 11. The commission shall adopt rules under IC 4-22-2 to  
22 implement this chapter.

23 SECTION 11. [EFFECTIVE JULY 1, 2007] Not later than April  
24 1, 2013, the Indiana utility regulatory commission shall submit a  
25 report in an electronic format under IC 5-14-6 to the general  
26 assembly. A report submitted under this SECTION must include:

27 (1) an analysis of; and

28 (2) any legislative proposals the commission believes would  
29 increase;

30 the effectiveness of and industry compliance with IC 8-1-35, as  
31 added by this act.

32 SECTION 12. [EFFECTIVE UPON PASSAGE] (a) As used in this  
33 SECTION, "commission" refers to the Indiana utility regulatory  
34 commission created by IC 8-1-1-2.

35 (b) As used in this SECTION, "electric utility" means a public  
36 utility (as defined in IC 8-1-2-1(a)) that:

37 (1) provides retail electric service to:

38 (A) more than four hundred thousand (400,000); but

39 (B) less than five hundred thousand (500,000);

40 retail electric customers in Indiana on April 1, 2007; and

41 (2) has a service area that includes, among other counties,  
42 each of the counties described in IC 36-7-7.6-1.

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1 (c) As used in this SECTION, "electric utility holding company"  
 2 means a corporation, company, partnership, or limited liability  
 3 company that owns an electric utility.

4 (d) As used in this SECTION, "regional public power  
 5 authority" means a multicounty public power authority established  
 6 to:

7 (1) acquire the generation, transmission, and distribution  
 8 assets of an electric utility or an electric utility holding  
 9 company;

10 (2) own and operate the assets described in subdivision (1);  
 11 and

12 (3) act as a nonprofit utility to provide retail electric service  
 13 to residential, commercial, industrial, and governmental  
 14 customers within the participating units.

15 (e) Upon the request of the county executives of three (3) or  
 16 more counties that are located in an electric utility's service area,  
 17 the commission shall study the feasibility of establishing a regional  
 18 public power authority. The study required by this subsection must  
 19 include the following:

20 (1) An examination of the need to:

21 (A) enact new state statutes or regulations; or

22 (B) amend existing state statutes or regulations;

23 to permit the establishment of a regional public power  
 24 authority.

25 (2) A valuation of the electric utility's generation,  
 26 transmission, and distribution assets to be acquired by the  
 27 regional public power authority.

28 (3) A study of:

29 (A) existing and potential funding sources or other  
 30 mechanisms, including the use of eminent domain,  
 31 available to the regional public power authority to acquire  
 32 the assets described in subdivision (2); and

33 (B) the method for determining each participating unit's  
 34 respective:

35 (i) contribution toward the acquisition of the assets; and

36 (ii) ownership interest in the assets acquired.

37 (4) A study of similarly sized public power authorities  
 38 operating in the United States, including information on the  
 39 assets, expenses, operations, management, and customer bases  
 40 of the authorities, to the extent the information is available.

41 (5) A cost benefit analysis of establishing a regional public  
 42 power authority.

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(6) A determination of whether the establishment of a regional public power authority is in the public interest.

(7) An examination of any other issues concerning the establishment of a regional public power authority that the commission considers relevant or necessary for study.

(f) As necessary to conduct the study required by subsection (e), the commission may:

(1) make use of the commission's existing resources and technical staff;

(2) employ or consult with outside analysts, engineers, experts, or other professionals; and

(3) consult with other:

(A) public power authorities operating in the United States; or

(B) state regulatory commissions that:

(i) regulate public power authorities; or

(ii) have conducted similar studies.

(g) Not later than December 31, 2007, the commission shall provide a report to the following on the commission's findings from the study conducted under subsection (e):

(1) The regulatory flexibility committee established by IC 8-1-2.6-4. The report provided to the regulatory flexibility committee under this subsection must be separate from the commission's annual report to the regulatory flexibility committee under IC 8-1-2.5-9(b).

(2) The legislative council. The report provided to the legislative council under this subsection must be in an electronic format under IC 5-14-6.

(3) The county executive of each county in the electric utility's service area on April 1, 2007.

(h) The report required by subsection (g) must contain the following:

(1) A summary of the commission's findings with respect to each issue set forth in subsection (e).

(2) Recommendations to the regulatory flexibility committee on any legislation needed to establish a regional public power authority.

(3) Any other findings or recommendations that the commission considers relevant or useful to the entities described in subsection (g).

(i) Before the commission submits its report under subsection (g), any entity described in subsection (g) may require the

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1 commission to provide one (1) or more status reports on the  
 2 commission's study under subsection (e). A status report provided  
 3 to the legislative council under this subsection must be in an  
 4 electronic format under IC 5-14-6.

5 (j) The regulatory flexibility committee:

6 (1) shall review the analyses and recommendations of the  
 7 commission contained in:

8 (A) any status reports provided by the commission under  
 9 subsection (i); and

10 (B) the commission's final report provided under  
 11 subsection (g); and

12 (2) may recommend to the general assembly any legislation  
 13 that is necessary to establish a regional public power  
 14 authority in Indiana, if the regulatory flexibility committee  
 15 determines that the establishment of a regional public power  
 16 authority is in the public interest.

17 (k) This SECTION does not empower the commission or any  
 18 entity described in subsection (g) to require an electric utility to  
 19 disclose confidential and proprietary business plans and other  
 20 confidential information without adequate protection of the  
 21 information. The commission and all entities described in  
 22 subsection (g) shall exercise all necessary caution to avoid  
 23 disclosure of confidential information supplied under this  
 24 SECTION.

25 SECTION 13. An emergency is declared for this act.

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## COMMITTEE REPORT

Madam President: The Senate Committee on Utilities and Regulatory Affairs, to which was referred Senate Bill No. 206, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 8, delete line 1 and insert **"electric generating facility" refers to a facility in Indiana,"**.

Page 8, line 2, delete "that:" and insert **"that, regardless of its fuel source, is used to generate electricity."**.

Page 8, delete lines 3 through 5.

Page 8, line 10, delete "energy" and insert **"electric"**.

Page 8, line 19, delete "energy" and insert **"electric"**.

and when so amended that said bill do pass.

(Reference is to SB 206 as introduced.)

HERSHMAN, Chairperson

Committee Vote: Yeas 7, Nays 3.

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 SENATE MOTION

Madam President: I move that Senate Bill 206 be amended to read as follows:

Page 8, line 24, delete "finds" and insert **"finds, after notice and hearing,"**.

Page 8, delete lines 31 through 33.

Page 8, line 34, delete "(3)" and insert **"(2)"**.

Page 8, delete lines 38 through 39, begin a new paragraph and insert:

**"(d) In addition to the incentives described in subsection (c), the commission may provide any of the following incentives for an approved regulated air emissions project:**

**(1) The authorization of up to three (3) percentage points on the return on shareholder equity that would otherwise be allowed to be earned on the project.**

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**(2) Other financial incentives the commission considers appropriate."**

(Reference is to SB 206 as printed January 30, 2007.)

GARD

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SENATE MOTION

Madam President: I move that Senator Kruse be added as second author of Engrossed Senate Bill 206.

GARD

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Commerce, Energy and Utilities, to which was referred Senate Bill 206, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, delete lines 1 through 17, begin a new paragraph and insert:

"SECTION 1. IC 8-1-2-6.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6.1. (a) As used in this section, "clean coal technology" means a technology (including precombustion treatment of coal):

(1) that is used at a new or existing electric **or steam** generating facility and directly or indirectly reduces **or avoids** airborne emissions:

(A) of:

- (i) **carbon**, sulfur, **mercury**, or nitrogen based pollutants; **or**
- (ii) **particulate matter**;

(B) **that are** associated with the combustion or use of coal; and

(C) **that are regulated, or reasonably anticipated by the commission to be regulated, by:**

- (i) **the federal government**;
- (ii) **the state**;
- (iii) **a political subdivision of the state**; or
- (iv) **any agency of a unit of government described in items (i) through (iii); and**



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(2) that either:

(A) is not in general commercial use at the same or greater scale in new or existing facilities in the United States as of January 1, 1989; or

(B) has been selected by the United States Department of Energy for funding under its Innovative Clean Coal Technology program and is finally approved for such funding on or after January 1, 1989.

(b) As used in this section, "Indiana coal" means coal from a mine whose coal deposits are located in the ground wholly or partially in Indiana regardless of the location of the mine's tippie.

(c) Except as provided in subsection (d), the commission shall allow a utility to recover as operating expenses those expenses associated with:

(1) research and development designed to increase use of Indiana coal; and

(2) preconstruction costs (including design and engineering costs) associated with employing clean coal technology at a new or existing coal burning electric **or steam** generating facility if the commission finds that the facility:

(A) utilizes and will continue to utilize (as its primary fuel source) Indiana coal; or

(B) is justified, because of economic considerations or governmental requirements, in utilizing non-Indiana coal;

after the technology is in place.

(d) The commission may only allow a utility to recover preconstruction costs as operating expenses on a particular project if the commission awarded a certificate under IC 8-1-8.7 for that project.

(e) The commission shall establish guidelines for determining recoverable expenses.

SECTION 2. IC 8-1-2-6.6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6.6. (a) As used in this section:

"Clean coal technology" means a technology (including precombustion treatment of coal):

(1) that is used at a new or existing electric **or steam** generating facility and directly or indirectly reduces **or avoids** airborne emissions:

(A) of:

(i) **carbon**, sulfur, **mercury**, or nitrogen based pollutants; **or**

(ii) **particulate matter**;

(B) **that are** associated with **the** combustion or use of coal;

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and

**(C) that are regulated, or reasonably anticipated by the commission to be regulated, by:**

- (i) the federal government;**
- (ii) the state;**
- (iii) a political subdivision of the state; or**
- (iv) any agency of a unit of government described in items (i) through (iii); and**

(2) that either:

(A) is not in general commercial use at the same or greater scale in new or existing facilities in the United States as of January 1, 1989; or

(B) has been selected by the United States Department of Energy for funding under its Innovative Clean Coal Technology program and is finally approved for such funding on or after January 1, 1989.

"Indiana coal" means coal from a mine whose coal deposits are located in the ground wholly or partially in Indiana regardless of the location of the mine's tipple.

"Qualified pollution control property" means an air pollution control device on a coal burning electric **or steam** generating facility or any equipment that constitutes clean coal technology that has been approved for use by the commission, that meets applicable state or federal requirements, and that is designed to accommodate the burning of coal from the geological formation known as the Illinois Basin.

"Utility" refers to any electric **or steam** generating utility allowed by law to earn a return on its investment.

(b) Upon the request of a utility that began construction after October 1, 1985, and before March 31, 2002, of qualified pollution control property that is to be used and useful for the public convenience, the commission shall for ratemaking purposes add to the value of that utility's property the value of the qualified pollution control property under construction, but only if at the time of the application and thereafter:

- (1) the facility burns only Indiana coal as its primary fuel source once the air pollution control device is fully operational; or
- (2) the utility can prove to the commission that the utility is justified because of economic considerations or governmental requirements in utilizing some non-Indiana coal.

(c) The commission shall adopt rules under IC 4-22-2 to implement this section.

SECTION 3. IC 8-1-2-6.7 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6.7. (a) As used in this section, "clean coal technology" means a technology (including precombustion treatment of coal):

(1) that is used in a new or existing electric **or steam** generating facility and directly or indirectly reduces **or avoids** airborne emissions:

(A) of:

(i) **carbon, sulfur, mercury, or nitrogen based pollutants; or**

(ii) **particulate matter;**

(B) **that are** associated with the combustion or use of coal; and

(C) **that are regulated, or reasonably anticipated by the commission to be regulated, by:**

(i) **the federal government;**

(ii) **the state;**

(iii) **a political subdivision of the state; or**

(iv) **any agency of a unit of government described in items (i) through (iii); and**

(2) that either:

(A) is not in general commercial use at the same or greater scale in new or existing facilities in the United States as of January 1, 1989; or

(B) has been selected by the United States Department of Energy for funding under its Innovative Clean Coal Technology program and is finally approved for such funding on or after January 1, 1989.

(b) The commission shall allow a public or municipally owned electric **or steam** utility that incorporates clean coal technology to depreciate that technology over a period of not less than ten (10) years or the useful economic life of the technology, whichever is less and not more than twenty (20) years if it finds that the facility where the clean coal technology is employed:

(1) utilizes and will continue to utilize (as its primary fuel source) Indiana coal; or

(2) is justified, because of economic considerations or governmental requirements, in utilizing non-Indiana coal;

after the technology is in place.

SECTION 4. IC 8-1-2-6.8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6.8. (a) This section applies to a utility that begins construction of qualified pollution control property after March 31, 2002.

(b) As used in this section, "clean coal technology" means a

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technology (including precombustion treatment of coal):

(1) that is used in a new or existing energy generating facility and directly or indirectly reduces **or avoids** airborne emissions:

(A) of:

- (i) **carbon**, sulfur, mercury, or nitrogen oxides;
- (ii) **particulate matter**; or
- (iii) other ~~regulated~~ air emissions;

(B) **that are** associated with the combustion or use of coal; and

(C) **that are regulated, or reasonably anticipated by the commission to be regulated, by:**

- (i) **the federal government;**
- (ii) **the state;**
- (iii) **a political subdivision of the state; or**
- (iv) **any agency of a unit of government described in items (i) through (iii); and**

(2) that either:

(A) was not in general commercial use at the same or greater scale in new or existing facilities in the United States at the time of enactment of the federal Clean Air Act Amendments of 1990 (P.L.101-549); or

(B) has been selected by the United States Department of Energy for funding under its Innovative Clean Coal Technology program and is finally approved for such funding on or after the date of enactment of the federal Clean Air Act Amendments of 1990 (P.L.101-549).

(c) As used in this section, "qualified pollution control property" means an air pollution control device on a coal burning energy generating facility or any equipment that constitutes clean coal technology that has been approved for use by the commission and that meets applicable state or federal requirements.

(d) As used in this section, "utility" refers to any energy generating utility allowed by law to earn a return on its investment.

(e) Upon the request of a utility that begins construction after March 31, 2002, of qualified pollution control property that is to be used and useful for the public convenience, the commission shall for ratemaking purposes add to the value of that utility's property the value of the qualified pollution control property under construction.

(f) The commission shall adopt rules under IC 4-22-2 to implement this section.

SECTION 5. IC 8-1-8.7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. As used in this

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chapter, "clean coal technology" means a technology (including precombustion treatment of coal):

(1) that is used in a new or existing electric generating facility and directly or indirectly reduces **or avoids** airborne emissions:

(A) of:

(i) **carbon**, sulfur, **mercury**, or nitrogen based pollutants; **or**

(ii) **particulate matter**;

(B) **that are** associated with the combustion or use of coal; and

(C) **that are regulated, or reasonably anticipated by the commission to be regulated, by:**

(i) **the federal government**;

(ii) **the state**;

(iii) **a political subdivision of the state**; **or**

(iv) **any agency of a unit of government described in items (i) through (iii); and**

(2) that either:

(A) is not in general commercial use at the same or greater scale in new or existing facilities in the United States as of January 1, 1989; or

(B) has been selected by the United States Department of Energy for funding under its Innovative Clean Coal Technology program and is finally approved for such funding on or after January 1, 1989."

Delete pages 2 through 5.

Page 6, delete lines 1 through 8.

Page 7, delete lines 14 through 42, begin a new paragraph and insert:

"SECTION 7. IC 8-1-8.8-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. As used in this chapter, "clean coal technology" means a technology (including precombustion treatment of coal):

(1) that is used in a new or existing energy generating facility and directly or indirectly reduces **or avoids** airborne emissions:

(A) of:

(i) **carbon**, sulfur, mercury, or nitrogen oxides;

(ii) **particulate matter**; **or**

(iii) other ~~regulated~~ air emissions;

(B) **that are** associated with the combustion or use of coal; and

(C) **that are regulated, or reasonably anticipated by the commission to be regulated, by:**

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- (i) the federal government;**
- (ii) the state;**
- (iii) a political subdivision of the state; or**
- (iv) any agency of a unit of government described in items (i) through (iii); and**

**(2) that either:**

- (A) was not in general commercial use at the same or greater scale in new or existing facilities in the United States at the time of enactment of the federal Clean Air Act Amendments of 1990 (P.L.101-549); or**
- (B) has been selected by the United States Department of Energy for funding under its Innovative Clean Coal Technology program and is finally approved for such funding on or after the date of enactment of the federal Clean Air Act Amendments of 1990 (P.L.101-549).**

**SECTION 8. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "commission" refers to the Indiana utility regulatory commission created by IC 8-1-1-2.**

**(b) As used in this SECTION, "electric utility" means a public utility (as defined in IC 8-1-2-1(a)) that:**

**(1) provides retail electric service to:**

- (A) more than four hundred thousand (400,000); but**
- (B) less than five hundred thousand (500,000);**

**retail electric customers in Indiana on April 1, 2007; and**

**(2) has a service area that includes, among other counties, each of the counties described in IC 36-7-7.6-1.**

**(c) As used in this SECTION, "electric utility holding company" means a corporation, company, partnership, or limited liability company that owns an electric utility.**

**(d) As used in this SECTION, "regional public power authority" means a multicounty public power authority established to:**

- (1) acquire the generation, transmission, and distribution assets of an electric utility or an electric utility holding company;**
- (2) own and operate the assets described in subdivision (1); and**
- (3) act as a nonprofit utility to provide retail electric service to residential, commercial, industrial, and governmental customers within the participating units.**

**(e) Upon the request of the county executives of three (3) or more counties that are located in an electric utility's service area,**

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the commission shall study the feasibility of establishing a regional public power authority. The study required by this subsection must include the following:

- (1) An examination of the need to:
  - (A) enact new state statutes or regulations; or
  - (B) amend existing state statutes or regulations;
 to permit the establishment of a regional public power authority.
- (2) A valuation of the electric utility's generation, transmission, and distribution assets to be acquired by the regional public power authority.
- (3) A study of:
  - (A) existing and potential funding sources or other mechanisms, including the use of eminent domain, available to the regional public power authority to acquire the assets described in subdivision (2); and
  - (B) the method for determining each participating unit's respective:
    - (i) contribution toward the acquisition of the assets; and
    - (ii) ownership interest in the assets acquired.
- (4) A study of similarly sized public power authorities operating in the United States, including information on the assets, expenses, operations, management, and customer bases of the authorities, to the extent the information is available.
- (5) A cost benefit analysis of establishing a regional public power authority.
- (6) A determination of whether the establishment of a regional public power authority is in the public interest.
- (7) An examination of any other issues concerning the establishment of a regional public power authority that the commission considers relevant or necessary for study.
- (f) As necessary to conduct the study required by subsection (e), the commission may:
  - (1) make use of the commission's existing resources and technical staff;
  - (2) employ or consult with outside analysts, engineers, experts, or other professionals; and
  - (3) consult with other:
    - (A) public power authorities operating in the United States; or
    - (B) state regulatory commissions that:
      - (i) regulate public power authorities; or

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(ii) have conducted similar studies.

(g) Not later than December 31, 2007, the commission shall provide a report to the following on the commission's findings from the study conducted under subsection (e):

(1) The regulatory flexibility committee established by IC 8-1-2.6-4. The report provided to the regulatory flexibility committee under this subsection must be separate from the commission's annual report to the regulatory flexibility committee under IC 8-1-2.5-9(b).

(2) The legislative council. The report provided to the legislative council under this subsection must be in an electronic format under IC 5-14-6.

(3) The county executive of each county in the electric utility's service area on April 1, 2007.

(h) The report required by subsection (g) must contain the following:

(1) A summary of the commission's findings with respect to each issue set forth in subsection (e).

(2) Recommendations to the regulatory flexibility committee on any legislation needed to establish a regional public power authority.

(3) Any other findings or recommendations that the commission considers relevant or useful to the entities described in subsection (g).

(i) Before the commission submits its report under subsection (g), any entity described in subsection (g) may require the commission to provide one (1) or more status reports on the commission's study under subsection (e). A status report provided to the legislative council under this subsection must be in an electronic format under IC 5-14-6.

(j) The regulatory flexibility committee:

(1) shall review the analyses and recommendations of the commission contained in:

(A) any status reports provided by the commission under subsection (i); and

(B) the commission's final report provided under subsection (g); and

(2) may recommend to the general assembly any legislation that is necessary to establish a regional public power authority in Indiana, if the regulatory flexibility committee determines that the establishment of a regional public power authority is in the public interest.

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**(k) This SECTION does not empower the commission or any entity described in subsection (g) to require an electric utility to disclose confidential and proprietary business plans and other confidential information without adequate protection of the information. The commission and all entities described in subsection (g) shall exercise all necessary caution to avoid disclosure of confidential information supplied under this SECTION."**

Delete page 8.

Re-number all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 206 as reprinted February 2, 2007.)

CROOKS, Chair

Committee Vote: yeas 12, nays 0.

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#### HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 206 be amended to read as follows:

Page 8, between lines 18 and 19, begin a new paragraph and insert:  
**"SECTION 8. IC 8-1-35 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]:**

#### **Chapter 35. Renewable Energy Development**

**Sec. 1. As used in this chapter, "electricity supplier" means a public utility (as defined in IC 8-1-2-1) that furnishes retail electric service to the public. The term does not include a public utility that is:**

- (1) a municipally owned utility (as defined in IC 8-1-2-1(h));**
- (2) a corporation organized under IC 8-1-13; or**
- (3) a corporation organized under IC 23-17-1 that is an electric cooperative and that has at least one (1) member that is a corporation organized under IC 8-1-13.**

**Sec. 2. As used in this chapter, "fund" refers to the renewable energy resources fund established by section 8 of this chapter.**

**Sec. 3. As used in this chapter, "regional transmission organization" refers to a regional transmission organization approved by the Federal Energy Regulatory Commission for the geographic area in which an electricity supplier's assigned service**

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area (as defined in IC 8-1-2.3-2) is located.

**Sec. 4.** As used in this chapter, "renewable energy credit", or "REC", means one (1) megawatt hour of electricity generated by renewable energy resources that is:

- (1) quantifiable; and
- (2) possessed by not more than one (1) entity at a time.

**Sec. 5. (a)** As used in this chapter, "renewable energy resources" includes the following sources for the production of electricity:

- (1) Dedicated crops grown for energy production.
  - (2) Methane systems that convert waste products, including animal, food, and plant waste, into electricity.
  - (3) Methane recovered from landfills.
  - (4) Wind.
  - (5) Hydropower, other than hydropower involving the construction of new dams or the expansion of existing dams.
  - (6) Solar photovoltaic cells and panels.
  - (7) Fuel cells that directly convert chemical energy in a hydrogen rich fuel into electricity.
  - (8) Sawmill or timber waste, other than waste derived from commercial grade timber.
  - (9) Agricultural crop waste.
  - (10) Combined heat and power systems that:
    - (A) use natural gas or renewable energy resources as feedstock; and
    - (B) achieve at least seventy percent (70%) overall efficiency.
  - (11) Demand side management or efficiency programs that reduce electricity consumption or implement load management or demand response technologies that shift electric load from periods of higher demand to periods of lower demand, including the following:
    - (A) Home weatherization.
    - (B) Appliance efficiency modifications and replacements.
    - (C) Lighting efficiency modifications.
    - (D) Heating and air conditioning modifications or replacements.
- (b) The term does not include energy from the incineration, burning, or heating of the following:
- (1) Tires.
  - (2) Garbage.
  - (3) General household, institutional, or commercial waste.
  - (4) Industrial lunchroom or office waste.

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(5) Construction or demolition debris.

(6) Feedstock that is municipal, food, plant, industrial, or animal waste from outside Indiana.

**Sec. 6. (a) Each electricity supplier shall supply electricity generated by renewable energy resources to Indiana customers as a percentage of the total electricity supplied by the electricity supplier to Indiana customers as follows:**

- (1) In 2009, at least five-tenths percent (0.5%).
- (2) In 2010, at least one percent (1%).
- (3) In 2011, at least two percent (2%).
- (4) In 2012, at least two and five-tenths percent (2.5%).
- (5) In 2013, at least three percent (3%).
- (6) In 2014, at least four percent (4%).
- (7) In 2015, at least five percent (5%).
- (8) In 2016 and 2017, at least six percent (6%).
- (9) In 2018 and 2019, at least seven percent (7%).
- (10) In 2020 through 2024, at least eight percent (8%).
- (11) In 2025 and thereafter, at least ten percent (10%).

For purposes of this subsection, electricity is measured in megawatt hours.

(b) An electricity supplier may not use a renewable energy resource described in section 5(a)(10) of this chapter to generate more than ten percent (10%) of the electricity that the electricity supplier is required to supply under subsection (a).

(c) An electricity supplier may use a renewable energy resource described in section 5(a)(11) of this chapter each to generate not more than ten percent (10%) of the electricity that the electricity supplier is required to supply under subsection (a).

(d) An electricity supplier may own or purchase RECs to comply with subsection (a).

(e) If an electricity supplier exceeds the applicable percentage under subsection (a) in a compliance year, the electricity supplier may carry forward the amount of electricity that:

- (1) exceeds the applicable percentage under subsection (a); and
- (2) is generated by renewable energy resources in an Indiana facility;

to comply with the requirement under subsection (a) for either or both of the two (2) immediately succeeding compliance years.

(f) An electricity supplier that fails to comply with subsection (a) shall deposit in the fund an amount equal to:

- (1) the number of megawatt hours of electricity that the

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electricity supplier was required to but failed to supply under subsection (a); multiplied by

(2) fifty dollars (\$50).

(g) An electricity supplier is not required to comply with subsection (a) if the commission determines that the electricity supplier has demonstrated that the cost of renewable energy resources or RECs available to the electricity supplier would result in an unreasonable increase in the basic rates and charges for electricity supplied to customers of the electricity supplier if the electricity supplier complied with subsection (a). The commission shall conduct a public hearing to make a determination under this subsection.

(h) If the commission determines under subsection (g) that the cost of available renewable energy resources or RECs is not reasonable, the commission shall:

- (1) reduce or eliminate the affected electricity supplier's obligations under subsection (a) as appropriate; and
- (2) review its determination not more than twelve (12) months after the reduction or elimination under subdivision (1) takes effect.

(i) The commission shall allow an electricity supplier to recover reasonable and necessary costs incurred in:

- (1) constructing, operating, or maintaining facilities to comply with this chapter; or
- (2) generating electricity from, or purchasing electricity generated from, a renewable energy resource;

by a periodic rate adjustment mechanism.

Sec. 7. (a) For purposes of calculating RECs to determine an electricity supplier's compliance with section 6(a) of this chapter, the following apply:

- (1) Except as provided in subdivisions (2) through (4), one (1) megawatt hour of electricity generated by renewable energy resources in an Indiana facility equals one (1) REC.
- (2) One (1) megawatt hour of electricity generated by a renewable energy resource described in section 5(a)(2), 5(a)(3), or 5(a)(4) of this chapter that originates in Indiana equals one and five-tenths (1.5) RECs.
- (3) One (1) megawatt hour of electricity that is:
  - (A) generated by a renewable energy resource in the territory of a regional transmission organization; and
  - (B) imported into Indiana;
 equals five-tenths (0.5) REC.

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(4) One (1) megawatt hour of electricity that is generated by a renewable energy resource described in section 5(a)(10) of this chapter in Indiana equals five-tenths (0.5) REC.

(b) Electricity generated by any source outside the territory of a regional transmission organization may not be considered for purposes of calculating an REC to determine an electricity supplier's compliance with section 6(a) of this chapter.

(c) An electricity supplier may satisfy not more than ten percent (10%) of the electricity supplier's requirement under section 6(a) of this chapter by owning or purchasing RECs calculated under subsection (a)(4).

(d) An electricity supplier may not apportion all or part of a single megawatt of electricity among:

- (1) more than one (1) renewable energy resource; or
- (2) more than one (1) category set forth in subsection (a);

in order to comply with section 6(a) of this chapter.

Sec. 8. (a) The renewable energy resources fund is established to:

- (1) support the development, construction, and use of renewable energy resources, including small scale renewable energy resources, in rural and urban Indiana; and
- (2) reimburse the Indiana economic development corporation and the commission for expenses incurred under section 9 of this chapter.

(b) The fund consists of the following:

- (1) Money deposited under section 6(f) of this chapter.
- (2) Money from any other source that is deposited in the fund.

(c) The Indiana economic development corporation shall administer the fund.

(d) The expenses of administering the fund shall be paid from money in the fund.

(e) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the fund.

(f) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

Sec. 9. (a) This section applies if there is sufficient money in the fund to reimburse the Indiana economic development corporation and the commission for expenses incurred under subsection (b).

(b) The Indiana economic development corporation, in consultation with the commission, shall develop a strategy to

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attract renewable energy manufacturing facilities, including wind turbine component manufacturers, to Indiana.

**Sec. 10. Beginning in 2011, and not later than March 1 of each year, a utility shall file with the commission a report of the utility's compliance with this chapter for the preceding calendar year.**

**Sec. 11. The commission shall adopt rules under IC 4-22-2 to implement this chapter.**

**SECTION 9. [EFFECTIVE JULY 1, 2007] Not later than April 1, 2013, the Indiana utility regulatory commission shall submit a report in an electronic format under IC 5-14-6 to the general assembly. A report submitted under this SECTION must include:**

- (1) an analysis of; and**
- (2) any legislative proposals the commission believes would increase;**

**the effectiveness of and industry compliance with IC 8-1-35, as added by this act."**

Renumber all SECTIONS consecutively.

(Reference is to ESB 206 as printed April 3, 2007.)

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#### HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 206 be amended to read as follows:

Page 5, after line 42, begin a new paragraph and insert:

**"SECTION 5. IC 8-1-2-6.9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6.9. (a) As used in this section, "existing electric generating facility" refers to a facility:**

- (1) other than a new energy generating facility (as defined in IC 8-1-8.8-8);**
- (2) that is used to generate electricity or steam;**
- (3) that is associated with the combustion of coal or natural gas; and**
- (4) that is used and useful for the convenience of the public not later than May 1, 2007.**

**(b) As used in this section, "regulated air emissions" means air emissions:**

- (1) from an electric generating facility;**
- (2) that are:**

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- (A) carbon, sulfur, mercury, or nitrogen based pollutants;  
or
- (B) particulate matter; and
- (3) that are regulated, or reasonably anticipated by the commission to be regulated, by:
  - (A) the federal government;
  - (B) the state;
  - (C) a political subdivision of the state; or
  - (D) any agency of a unit of government described in clauses (A) through (C).

(c) As used in this section, "regulated air emissions project" means a project designed to reduce or avoid regulated air emissions from an existing electric generating facility. The term does not include projects that provide offset programs, such as agricultural and forestry activities.

(d) An energy utility (as defined in IC 8-1-2.5-2) may petition the commission for approval of the construction, installation, and operation of a regulated air emissions project. If the commission finds, after notice and hearing, the proposed regulated air emissions project to be reasonable and necessary, the commission may approve the project and provide the following incentives:

- (1) The timely recovery of costs associated with the regulated air emissions project, including capital, operation, maintenance, depreciation, tax, and financing costs incurred during the construction and operation of the project.
- (2) The recovery of costs associated with:
  - (A) the purchase of emissions allowances; or
  - (B) the payment of emission taxes arising from compliance with air emissions regulations.

(e) In addition to the incentives described in subsection (d), the commission may provide any other financial incentives the commission considers appropriate."

Renumber all SECTIONS consecutively.

(Reference is to ESB 206 as printed April 3, 2007.)

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## HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 206 be amended to read as follows:

Page 5, after line 42, begin a new paragraph and insert:

"SECTION 5. IC 8-1-2-86.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 86.5. **(a) For purposes of this section, "four (4) mile area" means the area within four (4) miles of a municipality's corporate boundaries.**

**(b) Except as provided in subsection (c),** the commission, after notice and hearing, may, by order, determine territorial disputes between all water utilities.

**(c) This subsection applies if a municipality exercises the power to regulate the furnishing of water to the public granted by IC 36-9-2-14 within a four (4) mile area. The commission may not determine a territorial dispute within the four (4) mile area unless the territorial dispute concerns a geographic area that is located in:**

- (1) the four (4) mile area; and**
- (2) another four (4) mile area."**

Re-number all SECTIONS consecutively.

(Reference is to ESB 206 as printed April 3, 2007.)

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